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AUG 24 2005

TECHNOLOGY CENTER 3800

Juan C. Di Pietro
Estrada 1587, B1640 Martinez
Buenos Aires,
Argentina

In re Application of	:	DECISION ON
Juan Carlos Di Pietro	:	RENEWED PETITION
Application No. 09/981,812	:	TO WITHDRAW THE
Filed: October 19, 2001	:	HOLDING OF ABANDONMENT

For: ADAPTOR DEVICE FOR DOMESTIC SHOOTING
PRACTICE WITH LARGE-CALIBRE HAND-GUNS

This is a decision on applicant's renewed petition to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office (USPTO) on May 9, 2005.

The petition is **DISMISSED**.

A review of the file record reveals that a First Office Action rejection was mailed to applicant on February 24, 2003. On May 22, 2003 and May 27, 2003 applicant submitted responses to the February 24, 2003 rejection. On June 2, 2003 a letter of Non-Compliance was sent to applicant. Applicant responded to the Non-Compliance letter with an amendment, submitted July 7, 2003. On August 20, 2003, in response to the July 7, 2003 amendment, the Office mailed a letter of Informality, indicating that a balance of \$9.00 in fees were due. The August 20, 2003 letter of Informality gave the applicant one month to remit the missing fees. Since the fees were not submitted before September 20, 2003, the application became abandoned, and a Notice of Abandonment was mailed on September 23, 2004.

In his initial petition applicant submitted the \$9.00 fee due, and now renews the petition that the Fee Letter mailed August 20, 2003 was not received.

There is a strong presumption that mail properly addressed and delivered to the United States Postal Service was in fact delivered to the addressee. An

allegation that an Office communication was not received may be considered in a formal petition for the withdrawal of the holding of abandonment, in accordance with *Delgar Inc. v. Schuyler*, 172 USPQ 513. However, the presumption that the Office communication was delivered to applicant may be overcome by a showing that the communication was not, in fact, received as indicated below.

Applicant's statements of non-receipt should include a statement by him, and by anyone else at applicant's correspondence address, that would have handled the Office communication. Applicant should also include any available documentary evidence of mail received from the USPTO, covering a reasonable period after the date of the Office communication, to show non-receipt of the communication in question. Copies of records on which the receipt date of the Office communication would have been entered had it been received, (e.g., a copy of the outside of the file maintained by applicant), are required if available. Also, a showing of any docket records, or other method which would serve as a reminder of a response due date, should be submitted. Whatever method applicant uses as a reminder, and submits in response to this decision should be adequately explained. Also, a statement is required that a search of the file maintained by applicant, or any other location where correspondence from the USPTO is kept, failed to find a copy of the Office communication in question. Finally, applicant must state that he was in fact at the correspondence address of record at the time the Office action would have been received.

Any such exhibits should be submitted as part of statement(s) showing that no Office communication was ever received.

Applicant has submitted a statement from someone at the correspondence address who handles the mail. Applicant also states that he was at the correspondence address at the time of mailing. Applicant has not shown any available documentary evidence of USPTO mail received to show non-receipt of the communication in question. Applicant has not shown any docket records or other method which would serve as a reminder of a response due date. Finally, Applicant has not shown a copy of a file or other record where a response would have been entered had it been received.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181" and should be mailed to the Commissioner for Patents, P.O. Box 1450, Technology Center 3600, Alexandria, VA 22313-1450.



Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(571) 272-6611

SNM/js: 8/16/05